

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

NOEL GARCIA	:	CIVIL ACTION
	:	
v.	:	NO. 21-3457
	:	
BARRY SMITH, et al.	:	

ORDER

AND NOW, this 25th day of January 2022, upon careful and independent consideration of the Petition for a writ of habeas corpus (ECF Doc. No. 7), Petitioner’s Motion “to retrieve vital components” (ECF Doc. No. 9), Judge Rice’s Report and Recommendation (ECF Doc. No. 10), Petitioner’s Objections (ECF Doc. Nos. 11, 12), and for reasons in an accompanying Memorandum addressing two tolling objections, it is **ORDERED**:

1. We **APPROVE** and **ADOPT** Judge Rice’s October 29, 2021 Report and Recommendation (ECF Doc. No. 10) as we **overrule** Petitioner’s Objections (ECF Doc. Nos. 11, 12);
2. We **DENY** and **DISMISS** the Petition for a writ of habeas corpus (ECF Doc. No. 7) with prejudice;
3. We **DENY** the Motion to retrieve vital components (ECF Doc. No. 9);
4. We **DENY** a certificate of appealability;¹ and,
5. The Clerk of Court shall **close** this case.


KEARNEY, J.

¹ See 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).